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"E"

February 4, 2004

Mr. J. Sidney Crowley
Attorney at Law
440 Louisiana, Suite 2050
Houston, Texas 77002

Re: Richard A. Masterson (TDC #999,414)

Dear Mr. Crowley:

Mr. Masterson was seen for clinical interview on February 3, 2004 pursuant to your request. It is my understanding that he was convicted of the criminal offense of capital murder and received the death penalty approximately two years ago. The present interview was requested to assist in the appeals process and to provide any information that might be of value in mitigating his sentence. Also utilized were treatment records from the Texas Youth Commission related to his detention in their facilities between 1998 and 1999.

Mr. Masterson was seen in an attorney's interview booth located on the Polunsky Unit of the Texas Department of Corrections where he is presently incarcerated. He was presented as a well-groomed and well-nourished white male whose stated date of birth would make him almost thirty-two years old. As you recall, you were also present for the interview and consequently, Mr. Masterson understood that the information was being obtained for his defense. Throughout the contact with him, he was pleasant, agreeable, and responsive to all evaluation requirements. He seemed to be doing his best to provide complete and accurate information and was considered cooperative.

Based upon the results of the clinical interview, I would like to offer a summary of the relevant findings as they pertain to the referral question:

- 1) Mr. Masterson was raised in an extremely abusive (physically and emotionally) home environment, mainly due to the frequent and severe beatings at the hands of an alcoholic father. In this respect, he reported being slapped, and struck with a variety of items, including belts, switches, water hoses, extension cords, and coat hangers. Often these beatings were administered after being awakened in the middle of the night by his father who was in a drunken rage because he had noticed some minor infraction they had committed, such as leaving a gum wrapper in the yard.

Psychological Consultants to Medicine, Law, Business & Education

Re: Richard A. Masterson

Mr. Masterson continues to have sleeping difficulties to date, at least partly due to these events.

- 2) Mr. Masterson regular witnessed his father beating his mother. Eventually, she was convinced by family members to leave him after twenty-seven years of being subjected to this kind of abuse. His father passed away approximately four years ago.
- 3) Mr. Masterson was sexually abused by his older brother when he was eight years old (his brother was approximately eleven years older). This occurred on at least one occasion, but might have happened more often. This activity was forced upon him, but he told no one about it until much later when he was an adult and shared it with his father shortly before his death. His father accused him of being a liar when he heard this.
- 4) Mr. Masterson exhibited many behavioral and conduct problems throughout his life, including fighting and skipping school. His school adjustment was always poor. There are indications from the treatment records that he may have had some type of Attention Deficit Disorder, but this was never diagnosed or treated.
- 5) Mr. Masterson is nearly blind in his left eye (only sees shapes and light) and was "cross-eyed" in this same eye for many years, requiring him to wear a patch to school. He was regularly teased about this, leading to increased aggressive behavior and frequent fighting. Corrective surgery was performed in 1982, which helped. Because he did not want to go to school, it was necessary to repeat the first, sixth, and perhaps the fourth grade.
- 6) Mr. Masterson acknowledged a serious and ongoing problem with street drug abuse, mainly cocaine, both by injection and smoking ("crack"). At times, his drug abuse has become so severe that he has experienced seizures. In this respect, he estimated that he has had fifty to seventy-five separate seizure episodes when overdosing on drugs. Although he has used a number of illegal chemicals, his habitual use and periods of addiction have only involved cocaine (he does not believe that he was intoxicated on cocaine at the time the offense occurred, however). Mr. Masterson's use of alcohol was also heavy and regular and it is likely that he would be considered alcohol dependent. At these levels, and considering the amount of time he was abusing street drugs, the possibility of neurological compromise must be considered.
- 7) Mr. Masterson reports ongoing and continuing problems with severe headaches, which have been occurring since he began using street drugs heavily, at least since his mid-twenties. He stated that the headaches are sometimes so severe that they bring tears to his eyes and he finds it

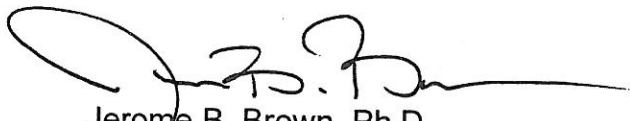
Re: Richard A. Masterson

necessary to use more of the prescribed medication from the prison doctors than he should. His history of seizure activity, together with the recurring headaches, warrant further examination with neuropsychological testing and a brain scan. It is possible that some type of brain anomaly or dysfunction has been present for some time and prior to the offense.

- 8) Mr. Masterson reported an incident during which he was struck in the head with a glass, requiring eighty stitches. This event could also be relevant to the issues noted in the previous section. He also reported a great deal of involuntary jerking while awake and a sense of "falling" while sleeping, which causes him to awaken.
- 9) While in the Texas Youth Commission, he underwent a psychiatric evaluation (5/13/88) that recommended he be considered for residential treatment. It does not appear that he ever received such treatment or that he has been provided with any opportunity in his life to receive appropriate psychiatric or mental health assistance. Such assistance could have led to an appropriate diagnosis regarding the source of his behavioral and academic problems and more careful evaluation of the possibility of any brain tissue pathology. If he had received the treatment he needed, later drug abuse and problems with the law, as well as the current offense, might have been avoided.
- 10) Mr. Masterson has had no disciplinary difficulties since being confined on death row. This suggests that initiation of problem behaviors is unlikely and that such behaviors emerge when he is provoked by events external to him. Such a pattern is often seen with individuals with brain tissue problems, especially compromise of the frontal lobe areas.
- 11) His reported history of street drug abuse suggests that these substances were being used as a form of self-medication. Further evaluation concerning the reasons why this would be necessary for Mr. Masterson would be justified and extremely important in understanding his drug addictions and related need to support his habit through criminal activity.

I hope this information is of value to you in working with this interesting client. Please do not hesitate to contact me if there are further questions.

Sincerely,



Jerome B. Brown, Ph.D.
Clinical Psychologist

Affidavit.

I, Richard Allen Masterson, Inmate Number 999414, being presently incarcerated in the Texas Department of Criminal Justice, Polunsky Unit, in Polk County, Texas, declare under penalty of perjury that the foregoing facts related by me to Dr. Jerome Brown on February 5, 2004, and cited in the foregoing report are true and correct.

Executed on February 26, 2004


Richard Allen Masterson



TEXAS YOUTH COMMISSION CHILD CARE SYSTEM

CONTINUATION SHEET
to be used in continuation of the
discipline report or misused
by reader

Date: 5-13-88

MM-DD-YY

Case Number: 0702778 Student's Name: Masterson, Richard
Last First Initial

Location: Statewide Reception Center

Form Number/Name/Item: Psychiatric Evaluation Page 1

Richard was referred to me for VDC (Veron Drug Center) commitment evaluation.

Richard is a 16 year old young man from Houston and Florida who has a Verbal IQ of 96, a Performance of 87 and a Full Scale of 91 which suggest organic brain syndrome.

He is charged with unauthorized use of a motor vehicle. He is from a family of three brothers, four sisters and he is the youngest. Richard says that his family was physically abused by his father and all of them have been "kicked out." His father sexually abused his mother and his sisters. He "kicked them out" one at a time. Apparently, this was in order to avoid the incestuous relationship. His father is an alcoholic and, according to Richard, they apparently were wealthy owning a great deal of property and lost all of this.

Richard likes being in Florida on the Fort Lauderdale Beach better than being in Texas. He has a history of fighting since he was in the first grade and had problems in school in the second grade. He repeated the fourth grade, and he failed the sixth grade three times.

He attempted to read for me and he apparently has a reading disorder. He has many of the symptoms of attention deficit, hyperactivity disorder and probably has this without having been treated.

He began using drugs only a few months ago and this was in rebellion against his father. He has used cocaine, crack, crystal and acid. He did not like alcohol. He was shot in the chest in Galveston and the bullet is still in his back.

He likes being a boy and he has very negative feelings about his father. He says his mother is a nice person. He loves his mother very much and his siblings very much.

Richard has worked on a horse farm in Florida and he would eventually like to be a Blacksmith and work on a horse farm. He



TEXAS YOUTH COMMISSION CHILD CARE SYSTEM

This information may be used for legal health if
discussed with patient or misused
by reader

Date: 5-13-88
MM-DD-YY

Case Number: 0702778 Student's Name: Masterson, Richard,
Last First Initial

Location: Statewide Reception Center

Form Number/Name/Item: Psychiatric Evaluation Page 2

was in the hospital to have his eyes operated on and he had a congenital strabismus (cross eyed) and he wore glasses when he was a small child for a "lazy eye." He is almost blind in his left eye.

Richard denies any suicidal ideations or attempts and he hopes to live until he is 85 or 90 years of age. His goals are to get out of here, work on a farm and hopefully to be a Blacksmith. If by magic he could be anything he wanted to be, he would be a movie star.

He has had feelings of wanting to kill the guy who shot him and feelings of wanting to kill his father. He denies any other homicidal ideations or psychotic ideations, except when being on drugs.

Richard stated that he and his friends used to rob wealthy homosexuals in order to get money. He stated that it was harder to do this in Florida because there was police protection around the beaches.

If he had wishes, he would 1) be out, 2) not be on drugs, 3) stay straight and 4) have money.

Richard is not particularly fond of any sport and he likes to lift weights, tear things apart and he has a 23 year old friend who has taught him auto mechanics.

He likes "Sanford and Son" on TV, and he has enemies that he doesn't want to have anything else to do with.

If he was going to be an animal, he would be a bird, but he wouldn't want to be a deer.

Richard has been sexually active since the age of 11 and he believes that he got one girl pregnant and she left. He states he would have taken responsibility of the child if she had stayed. Initially, he stated that it was the girl's responsibility. Later on after a discussion, he seemed to believe that it was a mutual



TEXAS YOUTH COMMISSION CHILD CARE SYSTEM

CONTINUATION SHEET

This information is confidential

to patient

discussed

by researcher

Date: 5-13-88

MM-DD-YY

Case Number: 0702778

Student's Name: Masterson

Richard

Last

First

Initial

Location: Statewide Reception Center

Form Number/Name/Item: Psychiatric Evaluation Page 3

responsibility. He daydreams about home and he worries about his mother. If he was going to a desert island, he would go with his mother. He is fearful that he will die before he gets out of here.

He claims he wants to change himself, change his action and change his drug habit.

MENTAL STATUS:

Richard is a tall, slender, young man who appears to be physically healthy. He has good eye contact for someone who has been cross eyed. He appears to be nervous and anxious and he fidgets a great deal. He is hyper aware and noticed unusual things about the room. He was easily distracted, squirmed a great deal and fidgeted a lot with his hand. He admitted that he had trouble sitting in his seat, difficulty waiting his turn, switching from one activity to another and enjoying dangerous activities without considering the consequences. He had some sleep disturbance and some bad dream disturbance.

There were times when he was about to cry when talking about his family, his mother and his sisters. He appeared to be angry at times when talking about his father. He did some gestalt where he beat on a chair. He claimed that he was not really angry with his father now as much as he was in the past. He has a history of being abused by his father and being in a family of violence.

IMPRESSION:

Axis I: Conduct disorder, solitary aggressive type, mild to moderate.

Substance abuse, cocaine 305.60.

Attention deficit, hyperactivity disorder, mild to moderate and chronic anxiety.

Axis II: Atypical personality disorder traits with borderline and possible atypical bipolar traits.

Axis III: Probable mild organic brain dysfunction and strabismus with amblyopia.